

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division**

SHELAGH PAYNE

Plaintiff,

v.

Civil Action No. 4:12cv87

**LAW OFFICES OF SHAPIRO, BROWN & ALT, LLP
F/K/A LAW OFFICES OF SHAPIRO & BURSON, LLP,**

and

**PROFESSIONAL FORECLOSURE CORPORATION
OF VIRGINIA**

Defendants.

JOINT STATUS REPORT

This matter is companion to six consolidated cases, with the lead case styled *Moore v. Shapiro Brown & Alt*, 4:11cv122. This case, together with the consolidated cases, are in the process of mediation. The Court has ordered a periodic status report, which report should have been filed on January 13, 2013.

The parties submit the following status report:

1. The parties held an in-person mediation session with Judge Dohnal on October 4, 2012.
2. On November 2, 2012, the parties were granted a 90 day stay of the proceedings to pursue mediation efforts.
3. On December 13, 2012, the parties filed a joint status report and informed the Court of their respective positions concerning the stay and mediation status, as well as the filing of a class action lawsuit was filed by counsel for Plaintiffs against Defendants in the Richmond

Division (*Boyd et al. v. Law Offices of Shapiro, Brown & Alt, LLP, et al.*, Civil Action No: 3:12-cv-700-REP (hereinafter “*Boyd*”))

Plaintiffs’ Position

4. Despite the efforts of Plaintiffs, their counsel and Judge Dohnal, Defendants have yet to make a meaningful effort at settlement. They have refused to make any offer – meaningful or otherwise. Plaintiffs and their counsel remain ready and willing to mediate and have expressed their position to Judge Dohnal. Indeed, even in their position herein, Defendants do not suggest that the stay continue in order to facilitate settlement, but instead in order to permit Defendants an attempt to transfer the venue of a Richmond Division case, with almost exclusively Richmond Division Plaintiffs seeking equitable and declaratory determinations as to exclusively Richmond Division real property. Therefore - the Defendant’s allegations of supposed “forum shopping” ring hollow, and Plaintiffs would encourage the court to look skeptically on the aspersions made by the pot with regard to the kettle.

But Plaintiffs’ position can be stated simply: As the Defendants apparently place much weight on the motions now pending before Judge Payne in the *Boyd* matter both as to the direction of mediation as well as issues to be determined in this case, plaintiffs agree. They consent to a continued stay of litigation in this matter until 30 days after the motions to transfer and to dismiss the case are ruled upon in the *Boyd* matter.

Defendants’ Position

5. Defendants continue to believe the stay should remain in place. Defendants remain engaged with and committed to the mediation process with Judge Dohnal. Defendants are awaiting individual settlement demands on the specific cases that have been filed and are stayed pending mediation. The *Boyd* class action lawsuit was filed against Defendants in the

Richmond Division the afternoon before the mediation session with Judge Dohnal in October 2012, which is a prime example of forum shopping. Defendants filed a motion to transfer venue and consolidate for pretrial and settlement purposes in *Boyd* on December 24, 2012. Plaintiffs have obtained two extensions of time to file their response to this motion, which is now currently due January 29, 2013, with Defendants' reply now due February 7, 2013. Defendants contend venue in the *Boyd* case should be transferred and it should be consolidated into *Moore* in the interests of justice, judicial economy, avoiding unnecessary inconvenience and cost, as well as to avoid prejudice and the likelihood of inconsistent rulings. After venue is transferred, Defendants submit their forthcoming motion to dismiss should be ruled upon in order to narrow the claims in *Boyd*, a decision which Defendants believe will further facilitate mediation and settlement. Defendants respectfully request that the Court continue to stay this matter until, at a minimum, the venue and forthcoming dismissal motions in *Boyd* are ruled upon, which rulings Defendants believe will help to narrow the case and help to crystallize the core issues for both parties in their efforts to mediate this dispute. Defendants want to and will continue to engage in settlement discussions with Plaintiffs under the supervision of Judge Dohnal.

6. The parties will continue to file their Joint Status Reports every thirty (30) days to advise the Court of the status of mediation efforts.

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of January, 2013, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will then send a notification of such filing (NEF) to the following:

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